

HOUSE BILL No. 5803

April 22, 2004, Introduced by Reps. Middaugh, Woodward, Hummel, Hunter, Vander Veen, Kooiman, Garfield, Mortimer, Ehardt, Julian, O'Neil, Sheen, Shaffer and Stakoe and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding chapter 21A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **CHAPTER 21A CREDIT INFORMATION AND CREDIT SCORES**

2 **Sec. 2151. (1) As used in this chapter:**

3 **(a) "Adverse action" means a denial or cancellation of**
4 **personal insurance coverage or an increase in any charge for, or**
5 **a reduction or other adverse or unfavorable change in the terms**
6 **of coverage or amount of, any personal insurance, existing or**
7 **applied for.**

8 **(b) "Consumer reporting agency" means any person which, for**
9 **monetary fees or dues or on a cooperative nonprofit basis,**
10 **regularly engages in whole or in part in the practice of**
11 **assembling or evaluating consumer credit information or other**

1 information on consumers for the purpose of furnishing consumer
2 reports to third parties.

3 (c) "Credit information" means any credit-related information
4 derived from a credit report, found on a credit report itself, or
5 provided on an application for personal insurance. Information
6 that is not credit-related shall not be considered credit
7 information, regardless of whether it is contained in a credit
8 report or in an application, or is used to calculate an insurance
9 score.

10 (d) "Credit report" means any written, oral, or other
11 communication of information by a consumer reporting agency
12 bearing on a consumer's credit worthiness, credit standing, or
13 credit capacity used or expected to be used or collected in whole
14 or in part for the purpose of serving as a factor in the rating
15 or underwriting of personal insurance.

16 (e) "Insurance score" means a number or rating that is
17 derived from an algorithm, computer application, model, or other
18 process that is based in whole or in part on credit information
19 for the purposes of predicting the future insurance loss exposure
20 of an individual applicant or insured.

21 (f) "Personal insurance" means property/casualty insurance
22 written for personal, family, or household use, including
23 automobile, home, motorcycle, mobile home, noncommercial dwelling
24 fire, boat, personal watercraft, snowmobile, and recreational
25 vehicle, whether written on an individual, group, franchise,
26 blanket policy, or similar basis.

27 (2) An insurer shall not use credit information or an

1 insurance score as any part of a decision to deny, cancel, or
2 nonrenew a personal insurance policy under chapter 24 or 26. An
3 insurer shall not apply credit information or a credit-based
4 insurance score in the rating or underwriting of personal
5 insurance that is otherwise permitted under this act unless all
6 of the following are met:

7 (a) The insurer or its producer discloses, either on the
8 insurance application or at the time the application is taken,
9 that it may obtain credit information in connection with the
10 application. This disclosure shall be either written or provided
11 to an applicant in the same medium as the application for
12 insurance. An insurer may use the following disclosure
13 statement:

14 "In connection with this application for insurance, we may
15 review your credit report or obtain or use a credit-based
16 insurance score based on the information contained in that
17 credit report. We may use a third party in connection with
18 the development of your insurance score."

19 (b) The insurer or a third party on behalf of the insurer
20 does not use income, gender, address, zip code, ethnic group,
21 religion, marital status, or nationality of the insured or
22 insurance applicant in calculating an insurance score.

23 (c) The insurer does not take an adverse action against a
24 consumer solely because he or she does not have a credit card
25 account, without consideration of any other applicable factor
26 independent of credit information.

27 (d) The insurer or a third party on behalf of the insurer

1 does not consider an absence of credit information or an
2 inability to calculate an insurance score in the rating of
3 personal insurance unless any resulting rate differential is
4 reasonably justified by differences in losses, expenses, or both,
5 or the insured or insurance applicant is treated as having the
6 most favorable insurance score available.

7 (e) The insurer or a third party on the insurer's behalf uses
8 a credit report issued within 90 days before the date an
9 insurance score based on that credit report is first applied to
10 the insured.

11 (f) Upon request of an insured or the insured's producer at
12 annual renewal, an insurer or a third party on the insurer's
13 behalf shall reexamine a current credit report or insurance
14 score. An insurer or a third party on the insurer's behalf is
15 not required to recalculate the insurance score or obtain a new
16 credit report more frequently than once in a 12-month period. An
17 insurer or a third party on the insurer's behalf may order a
18 credit report upon any renewal if the insurer does so
19 consistently with all its insureds.

20 (g) For insurance scores calculated or recalculated on or
21 after July 1, 2005, the insurer or a third party on the insurer's
22 behalf does not use the following as a negative factor in any
23 insurance score or in reviewing credit information:

24 (i) Credit inquiries not initiated by the consumer or
25 requested by the consumer for his or her own credit information.

26 (ii) Credit inquiries relating to insurance coverage, if so
27 identified on an insured's or insurance applicant's credit

1 report.

2 (iii) Multiple lender inquiries, if coded by the consumer
3 reporting agency on the credit report as being from the home
4 mortgage industry and made within 45 days of one another, unless
5 only 1 inquiry is considered.

6 (iv) Multiple lender inquiries, if coded by the consumer
7 reporting agency on the credit report as being from the
8 automobile lending industry and made within 45 days of one
9 another, unless only 1 inquiry is considered.

10 (v) The number, if under 3, of credit or charge card accounts
11 opened by a consumer in the immediately preceding 12 months.

12 (vi) An action commenced by or against the consumer under the
13 bankruptcy code, 11 USC 101 to 1330, if the date of the order for
14 relief or the date of adjudication, as applicable, in that action
15 is more than 10 years before the date of the credit report.

16 (vii) Collection accounts with a medical industry code, if so
17 identified on the consumer's credit report.

18 (h) The insurer or a third party on behalf of the insurer
19 does not calculate an insurance score by differentiating on
20 whether an insured's or insurance applicant's accounts are
21 maintained at a state or nationally chartered bank or a state or
22 federally chartered savings and loan association, savings bank,
23 or credit union.

24 (3) If an insurer takes an adverse action based upon credit
25 information, the insurer shall notify the insured or applicant
26 for insurance in accordance with 15 USC 1681m(a), that an adverse
27 action has been taken and shall provide notice in clear and

1 specific language of the reasons for the adverse action,
2 including a description of all factors that were the primary
3 influences for the adverse action. However, not more than 4
4 factors that were the primary influences for the adverse action
5 need to be given. The use of generalized terms such as "poor
6 credit history", "poor credit rating", or "poor insurance score"
7 does not meet the description requirements of this subdivision.
8 Standardized credit explanations provided by consumer reporting
9 agencies or other third party vendors meet the description
10 requirements of this subdivision.

11 (4) If it is determined through the dispute resolution
12 process set forth in 15 USC 1681i(a)(5) that the credit
13 information of a current insured was incorrect or incomplete and
14 if the insurer receives notice of this determination from either
15 the consumer reporting agency or from the insured, the insurer
16 shall reevaluate the insured within 30 days of receiving the
17 notice. After reevaluating the insured, the insurer shall make
18 any adjustments necessary, consistent with this act and the
19 insurer's underwriting, rating guidelines, and premium discount
20 plan. If an insurer determines that the insured has overpaid
21 premium, the insurer shall refund to the insured the amount of
22 overpayment calculated back to the shorter of either the last 12
23 months of coverage or the actual policy period.

24 (5) Nothing in this chapter shall be construed to provide an
25 insured or applicant for insurance with a cause of action that
26 does not exist in the absence of this chapter.

27 (6) An insurer shall indemnify, defend, and hold harmless

1 producers from and against all liability, fees, and costs arising
2 out of or relating to the actions, errors, or omissions of a
3 producer resulting from the use of credit information or
4 insurance scores for the insurer, provided that the producer
5 follows the procedures and instructions established by the
6 insurer and complies with all applicable laws and regulations.

7 (7) The commissioner shall provide input to the study being
8 conducted under section 215 of the fair and accurate credit
9 transactions act of 2003, Public Law 108-159, and shall report to
10 the senate and house of representatives standing committees on
11 insurance issues on the input provided by September 1, 2005.

12 Enacting section 1. This amendatory act takes effect July
13 1, 2005.